IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8367 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL
and
Hon'ble MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MANGUBHAI CHHAGANBHAI PATEL

Versus

STATE OF GUJARAT

Appearance:

MR VIJAY H PATEL for Petitioner
MR RC KODEKAR, AGP for Respondent No. 1
MR RS SANJANWALA for Respondent No. 2

CORAM : MR.JUSTICE J.M.PANCHAL
and
MR.JUSTICE A.M.KAPADIA

Date of decision: 06/03/2000

ORAL JUDGEMENT

(Per : Panchal, J.)

By means of filing this petition under Article 226 of the Constitution, the petitioner has prayed to issue a writ of mandamus or any other appropriate writ, order or direction, restraining the respondents from removing the petitioner from the office of Chairman of Gujarat Tribal Development Corporation and/or insisting upon the petitioner to resign from the post of Chairman of the said Corporation.

2. The Gujarat Tribal Development Corporation is established under the provisions of the Gujarat Tribal Development Act, 1972. As per the provisions of the said Act, the Governor of Gujarat is empowered to nominate Chairman and 9 Directors.

3. In the year 1995, general election of the Gujarat State Legislative Assembly was held and on March 14, 1995, new Government headed by Shri Keshubhai Patel was installed. Thereafter, the State of Gujarat by an order dated September 8, 1995 had appointed the petitioner as Chairman of the Gujarat Tribal Development Corporation. A copy of the said order is produced by the petitioner at Annexure-A to the petition. On September 19, 1996, President's Rule was imposed in exercise of powers conferred under Article 356 of the Constitution,in the State of Gujarat and on October 11, 1996, general election of Gujarat State Legislative Assembly had taken place. The respondent no.2 had formed ministry and was elected as the Chief Minister of the State of Gujarat. According to the petitioner, a statement was made by the respondent no.2 asking the Chairman of different Corporations and Boards to resign in the wake of formation of new Government. The petitioner apprehended that the respondents would issue order removing him from the Chairmanship of the Gujarat Tribal Development Corporation. Under the circumstances, the petitioner has filed present petition and claimed reliefs to which reference is made earlier.

4. The petition was placed for admission hearing before Court (Coram : M.S.Parikh, J.) and following order was passed by the Court on November 1, 1996 :

"On going through the petition as it stand, I am of the opinion that the matter involves the questions of public importance. Besides, as stated in one of the grounds, there is Special Civil Application No. 8078/96 pending before Division Bench of this Court. In that view of

the matter, the Office to place this matter before the Hon'ble the Chief Justice for placing the same before the appropriate Court."

In view of the above-referred to order, the matter was placed before the Hon'ble the Chief Justice, who directed the matter to be listed for hearing before Division Bench. Therefore, this petition with other petitions was placed for hearing before Division Bench consisting of Hon'ble Mr. Justice S.M.Soni and Hon'ble Mr. Justice S.D.Pandit and the Division Bench by an order dated December 18, 1996 had issued rule, but refused interim relief by a speaking order. As the matter is admitted for final hearing, it has been placed before us for disposal.

5. The learned Counsel for the petitioner states at the Bar that the petitioner was appointed as Chairman of the Gujarat Tribal Development Corporation for a period of 3 years and as the tenure of the petitioner as Chairman of the said Corporation has expired with the passage of time, the petition has become infructuous and should be disposed of accordingly.

6. The fact that the petitioner was appointed as Chairman of Gujarat Tribal Development Corporation for a period of 3 years from September 8, 1995, is not in dispute. We may state that at present the respondent no.2 is not the Chief Minister of the State and another ministry headed by Shri Keshubhai Patel is already installed in the State of Gujarat. The tenure of the petitioner as Chairman of the Corporation was only for a period of 3 years and, therefore, we are of the opinion that the learned Counsel for the petitioner is right in stating that the petition has become infructuous with the passage of time and should be disposed of accordingly. The issue involved in the petition has become academic in nature and it is well settled by catena of decisions of the Supreme Court that academic issue should not be decided by the High Court in a petition filed under Article 226 of the Constitution. Therefore, the request made by the learned Counsel for the petitioner being just and reasonable, deserves to be accepted.

For the foregoing reasons, the petition fails. Rule is discharged, with no order as to costs. The petition stands disposed of as having become infructuous.

6.3.2000 (J.M.Panchal,J.) (A.M.Kapadia,J.)